REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR
RERA/CC/724/2019

Piyush Kumar Srivastava .....Complainant

Vs.

M/s Sarvodaya Marketing Pvt. Ltd. ..... Respondent

RECTIFICATION OF ORDER DATED 18.08.2022

Project: Sarvodaya City.

02.02.2024: A rectification petition has been filed to modify the interest rate in the order passed on 18.08.2022 to 2% over the MCLR.

The promoter has filed this petition stating that the interest rate of 5% appears to be an error on record as maximum MCLR plus 2% is prescribed under Section 17 of the Bihar RERA Rules, 2017.

The complainant has opposed the submission on the ground that despite the order of 18.08.2022 the promoter has not refunded even the principal amount and he was compelled to file a matter for Execution. He has submitted that in Execution Case No.410/2022, the learned court has already passed order on 01.09.2023 to make payment of Rs.43,37,475/-. The complainant has submitted that the promoter never raised this objection during execution proceeding and that this matter has been filed with a ulterior motive to further delay payment to him. The complainant has further stated substantive part of any order cannot be amended during rectification.

The complainant has filed copy of the order of Execution Case No.410.2022 which was disposed on 01.09.2023.

Perused the records. The Authority is inclined to agree with the complainant that the promoter ought to have filed the rectification petition and just after the passing of the order and even during the execution proceeding. The fact that the petition was filed on 23.11.2023 after the order of execution was passed in September, 2023 supports the contention of the allottee that the promoter is delaying the payment.

The Authority observes that the Bihar RERA Rules provides that the promoter is required to pay interest at 2% above the PLR of SBI prevailing on the date on which the amount becomes due.

The Authority takes into account that the interest rates have generally been decreasing . As the booking was made in 2013 and the order was passed in 2022 even after adding 5% to the MCLR, the total interest would be probably the same rate if PLR of that year was calculated and 2% was added to it. The Authority also

feels that ascertaining the date on which the amount becomes due is also difficult in many cases. Since it becomes difficult to ascertain PLR for the periods on which the amount becomes due, particularly in the matter of execution, the Authority has taken a simplistic view by adding 3% more to the MCLR just to protect the interest of amount and save them from further hardship.

The Authority agrees with the contention of the complainant that accepting the petition for rectification of this order might amend its own order substantively. It, therefore, directs the office to ascertain the PLR of SBI prevailing in November, 2013 and December 2013 before taking a final view in the matter .

Meanwhile , the Authority directs the promoter, who has filed the petition for rectification to pay immediately the principal amount and interest calculated at the rate of MCLR of SBI plus two per cent before the matter is adjudicated.

Put up on 19.3.2024.

Sd/-
(Naveen Verma)
Chairman

SPS